

**MINUTE BOOK 24, PAGE 175
CITY OF STATESVILLE COUNCIL MEETING – April 04, 2011
IREDELL COUNTY GOVERNMENT CENTER – 7:00 P.M.
STATESVILLE, NORTH CAROLINA**

Mayor Costi Kutteh presiding:

Council Present: Gregory, J. Johnson, Eisele, Huggins, Stallard, Matthews, Steele, M. Johnson via speakerphone

Council Absent: 0

Staff Present: Hites, Gaines, Fugett, Pressley, Currier, Layne, Cox Pritchard, Houpe, Davis, Anderson, Salmon, Bulling, Smyth

Media Present: Jim McNally – Statesville Record & Landmark

Visitors: 12

Call to Order

Invocation

The invocation was given by the City Clerk.

Pledge of Allegiance

The Pledge of Allegiance was led Mayor Kutteh

CONSENT AGENDA – All items below are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion on these items unless a Council member so requests, in which event, the item will be removed from the Consent Agenda and considered with the other items listed in the Regular Agenda.

- A. Approve the minutes of the Pre-agenda meeting of March 03, 2011 and the Council Meeting of March 07, 2011.**
- B. Consider approving a motion closing a portion of West End Avenue from Mulberry Street to Meeting Street to traffic on Saturday and Sunday, April 9-10, 2011 from 3 p.m. to 7:30 p.m. for the Twilight Cemetery Tours in the Fourth Creek Burying Ground.**
- C. Consider approval of a contract for a two year renewal period for professional services at the airport with the LPA Group/Michael Baker Engineering.**
- D. Consider approval of Pratt's request to install a Sewer Meter.**
- E. Approve a grant request from the NC Forest Service to replant and create a reforestation program at the Third Creek Waste Treatment Plant.**

Council member Matthews made a motion to approve the Consent Agenda, seconded by Council member J. Johnson. The motion carried unanimously.

Regular Agenda

Hold a public hearing and consider re-establishing the Downtown Tax/Municipal Service District for Downtown Statesville Development Corporation.

David Currier explained that the General Statutes of the State of North Carolina, Chapter 160A-535 and 536 provide for the establishment of Municipal Service Districts. In 536 there is a list of requirements or programs involved with Municipal Service Districts and one is for Downtown Revitalization Projects. A downtown revitalization project may also include promotion and development activities, such as sponsoring festivals and markets, promoting business investment in the downtown area, helping to coordinate public and private actions in the downtown area and developing and issuing publications on the downtown area, designated to improve the economic well being of the downtown area, and further the public health, safety, welfare, and convenience. Since being approved by City Council in 1987, this is what the Downtown Statesville Development Corporation has done and the Municipal Service District has been renewed every five years by City Council since that time. As required by State statute, a report on the downtown district was filed in the City Clerk's office on March 3, 2011. A Notice of Public Hearing was mailed to all property owners on March 4, 2011 and a Notice of Public Hearing was published in the Statesville Record & Landmark on March 25, 2011. Mr. Currier

reviewed a map showing the current Municipal Service District area. He stated that City staff and the DSDC recommend approving the current Municipal Service District area with no additions or deletions. Mr. Currier advised that the current Municipal Service District expires June 30, 2011. He asked that, following the public hearing for this item, if City Council is inclined to continue the Municipal Service District, that a motion be made directing staff to present a resolution to re-establish the Municipal Service District at the April 18, 2011 City Council meeting.

Mayor Kutteh declared the public hearing open and asked if there was anyone who wished to speak in opposition to the re-establishment of the Downtown Tax/Municipal Service District. There were no speakers. Mayor Kutteh asked if there was anyone who wished to speak in favor of this item.

Marin Tomlin, representing the Downtown Statesville Development Corporation, thanked City Council for the renewal of the Municipal Service District in 2006. Ms. Tomlin stated that DSDC works to provide many services for downtown and to serve many different constituents, including property owners, retail businesses, restaurants, professionals, and service oriented businesses, all of which have different needs. Downtown Statesville has been a member of the North Carolina Main Street program for the last 29 years and as such, DSDC works to create a well-balanced program for the economic development of the downtown district by focusing on the Main Street 4-Point Approach. Ms. Tomlin reviewed the different components of the Main Street 4-Point Approach and the successful projects and accomplishments that have resulted from DSDC's implementation of this approach. Ms. Tomlin requested that City Council re-establish the Downtown Tax/Municipal Service District.

Mayor Kutteh asked if there was anyone else who wished to speak in favor of this item. There were no further speakers. Mayor Kutteh declared the public hearing closed.

Council member M. Johnson made a motion to approve the request from the Downtown Statesville Development Corporation to re-establish the Downtown Tax/Municipal Service District, seconded by Council member Matthews. The motion carried unanimously.

Council member M. Johnson made a motion to instruct staff to prepare a resolution for the re-establishment of the Downtown Tax/Municipal Service District, seconded by Council member Matthews. The motion carried unanimously.

Consider approval of the 2nd reading of TA11-02 filed by the City of Statesville to amend Article 3 Zoning, Table 3-1: Use Matrix, Article 5 Supplemental Regulations/Performance Standards for Specific Uses, Section 5.02 Accessory Uses and Structures, and Article 6 Development Standards, Section 6.07 Sign Regulations.

David Currier explained the public hearing for this item had been conducted at the previous Council meeting and that Council had unanimously approved three text amendments in one ordinance. Since that time staff has separated the three text amendments into three separate ordinances.

In review of the first ordinance, TA11-02A, Mr. Currier reported that Council had directed staff to model an ordinance similar to what was approved for the CB, CBP and Municipal Service Districts, to prohibit transient tractor trailer vehicles from being parked or stored in the H-115 District and for staff to take an inventory of what tractor trailers were parked or stored in this area. Mr. Currier reviewed photos of tractor trailers included in the inventory performed by staff and whether they were in violation of the proposed ordinance or grandfathered. He stated that approximately six or eight locations have tractor/trailers in the H-115 district. Staff has analyzed each location and has found that all are compliant; they each have a correlation or nexus to the businesses they are at.

Council member M. Johnson asked if the tractor trailers located at the warehouse operation on Powers Street had been verified by staff as part of that operation. Mr. Currier answered that staff was assuming they are compliant pending further investigation. Council member Eisele stated she had also checked on this location and found that these tractor trailers contain items which are being stored in the trailers then sold at the auction house.

Council member Huggins made a motion to approve the 2nd reading of ordinance TA11-02A as presented by staff, seconded by Council member Stallard. The motion carried unanimously.

Mr. Currier stated that the second ordinance, TA11-02B, addresses hand held, human/mascot signs. He stated in August 2010 the Unified Development Code was adopted and prohibited this type of signage. Council had expressed an interest in reviewing this issue. In January 2011 staff presented three options to Council and asked for their direction. The three options

presented were: Option 1 - to allow this type of signage anywhere in the City, Option 2 - to restrict this type of signage to the lot on which the business was actually located and Option 3 - to take no action and this type of signage would remain prohibited as originally approved August 2010 in the Unified Development Code. At that time, by a 6-2 vote, Council directed staff to add some regulations to Option 1. Staff presented the following additional regulations for this ordinance to Council: One sign or mascot per lot. The sign or mascot may be on any lot in the City but must have the property owner's permission and not be in the NCDOT right-of-way. The sign can be no larger than 12 square feet with the longest axis not exceeding 6 feet. An annual permit is required for a fee of \$150, which is in relation to the \$25 fee currently charged by the City for a 30 day temporary sign permit which can be obtained once a quarter, four times a year. Mr. Currier reported the Planning Board had voted 5-3 unfavorably towards allowing this type of signage.

Council member M. Johnson asked for clarification that if the property was a shopping center that contained ten separate tenants, then only one of the tenants at a time could request permission from the property owner and obtain a permit. Mr. Currier agreed this was correct, but the other nine could seek permission from a property owner of a different lot and secure a permit. Council member M. Johnson stated this would never happen. Mayor Kutteh clarified that Council member M. Johnson was stating that it was unlikely the property owner/landlord would give permission for this, to the exclusion of the other tenants.

Council member Huggins asked if the City was experiencing any problems with the mascots or the hand held signs. Mr. Currier stated currently there are approximately five or six at any given time operating, and all are illegal per the current Unified Development Code. Staff feels the provision of one permit per lot controls the proliferation of this type of signs.

Council member Stallard stated totally prohibiting these types of signs would not be in the best interest of the City and would cause staff to become the sign police. He felt the regulations proposed by staff would at least limit the number of these types of signs.

Council member M. Johnson expressed disagreement with the regulation of one sign per lot. Mr. Currier explained this regulation would diffuse a proliferation of these types of signs at one location, such as the Signal Hill Mall or the Crossroads Shopping Center.

Council member Stallard made a motion to approve 2nd reading TA11-02B as submitted by staff.

Council member Steele emphasized she felt the City did not have a problem with hand held signs. She stated when asked previously, staff had reported there had been either two or four complaints, which in her opinion, is not a problem. She expressed concern of who would enforce the ordinance.

Council member Stallard reminded Council that as the code stands currently, all hand held signs and mascots, such as the Chic-fil-A mascot and anybody with hand held signs, are illegal, so at least this ordinance would allow these folks to continue with a permit. Council member Steele agreed and stated she would vote for this because it is better than how the Unified Development Code is currently written. Council member Stallard stated one way or another this issue has to be policed and requiring a permit may limit the number of businesses that wish to use hand held/mascot signs.

Council member J. Johnson felt if this is passed, staff will eventually request a full time employee to enforce it. He stated he admired the people holding these signs trying to make a living, instead of holding an "I'll Work for Food" sign. This is eliminating a job for someone. Council member Steele reminded him that according to the current code it is already illegal for them to be standing in the right-of-way with these signs. She stated this recommendation is less restrictive.

Council member M. Johnson felt the proposed regulations in this ordinance are a good middle ground from the total prohibition in the current code of these types of signs.

Council member M. Johnson seconded the motion made by Council member Stallard.

Council member Steele reiterated she felt this issue was not a problem and especially did not agree with charging \$150 for a yearly permit. Council member Huggins agreed.

Council discussed the price and the need for a permit. Council member M. Johnson asked Council member Stallard if he would consider amending his motion to state "the permit fee would be waived for hand held signs/mascots that are standing on their own property"? Council member Stallard stated he would amend the motion to include this.

Mayor Kutteh clarified the motion was to "Approve 2nd reading of TA11-02B as submitted by staff, without the imposition of a fee, if the hand held sign is used only on the premises where the business is located." Council member Stallard corrected the motion to state "where the business owner's property" is located.

Council member Eisele felt it is unfair to business owners that do not use the hand held/mascot signs for the City not to charge a fee for the hand held/mascot signs when it currently charges a fee for a temporary sign permit for promotions by businesses that use banners, balloons and extra signage on their premises. Council member Steele reminded Council the reason the temporary sign permit and fee was originally imposed, was because it became a problem.

The vote was as follows:

Ayes: Stallard, M. Johnson, Eisele

Nays: Huggins, Matthews, Gregory, Steele, J. Johnson

Motion Failed 5-3

Mr. Currier reviewed ordinance TA11-02C, Interstate Vicinity Signs, with Council. He explained this text amendment would allow all Business Districts within 1,000 feet of the interstate to have this type of sign. Previously only B-3, B-4 and B-5 districts allowed Interstate Vicinity Signs however, a closer look at the zoning around the interchanges include the B-1 and B-2 districts.

Council member Stallard made a motion to approve TA11-02C as submitted, seconded by Council member Eisele. The motion carried unanimously.

Council member Stallard asked to revisit the ordinance for TA11-02B. He asked who will notify businesses, such as Chic-fil-A, that the current code prohibits hand held/mascot signs. Mr. Currier stated the Code Enforcement officer would notify the affected businesses.

Council member Matthews asked if another motion could be made at this time for TA11-02B. Mayor Kutteh explained if the motion made is less restrictive than what the public hearing legal ad contained, another motion could be made. He stated 2nd reading could not be approved for any changes that are more restrictive than what the public hearing legal ad contained.

Council member Matthews made a motion to allow hand held or human/mascot signs with the stipulations that they could not be in the City or State right-of-ways, could not impede traffic or present a danger to the public and must have the property owner's permission, seconded by Council member Steele. The vote was as follows:

Ayes: Matthews, Steele, Gregory, J. Johnson, Eisele, Stallard, Huggins

Nays: M. Johnson

Motion Carried 7-1

Consider approving Distribution Line design changes for the Substation 5 project.

Kent Houpe reported on September 20, 2010 City Council approved a budget amendment which allowed construction of the new Substation 5 beside the existing cell phone tower behind the Farm & Garden Services store on Light Street. The existing substation is directly in front of the Farm & Garden Services store. In order to enhance the area around the existing substation, staff proposed and Council authorized placing a portion of the overhead lines underground. After further study, staff now believes that the pole structures required to transition from overhead to underground would be more unsightly than the rebuilt overhead lines. Also, staff would be unable to eliminate the existing overhead line along the north side of the Fourth Creek Cemetery wall as this line feeds lighting in the cemetery that must remain overhead. Staff has studied various alternatives and has concluded that removing the existing substation and associated wood poles and rebuilding the overhead line running in front of the Farm & Garden Service store would yield a more attractive design that would be more compatible with the surrounding downtown area.

Council member Steele made a motion to approve the Distribution Line design changes for the Substation 5 project, seconded by Council member Gregory. The motion carried unanimously.

Receive monthly update on the City Hall and Streetscape projects.

Jason Layne reported the City Hall project continues to make good progress and there have been no accidents on the job. Mr. Layne regretfully informed Council that David Fishetti, the structural engineer for the project, had passed away. Mr. Fishetti was sub-contracted by the architect who will sub-contract his replacement. Some tiles containing asbestos under the carpet in the Council chambers was uncovered and also in the glue-dots that secured the ceiling tiles in the southeast office on the first floor. These items have been safely removed according to State and Federal regulations. A temporary fire alarm has been installed. This alarm is not required but staff felt this was a great step in protecting such an historic landmark. The plumbing rough in is complete on all floors and the wall framing is 98% complete. Framing is incomplete only in areas where it would conflict with other trades if it were installed at this time.

The airlock on the front of the building has been removed. The exterior cleaning and restoration has begun and sample bricks are still being compared to match existing work. In an effort not to conflict with the Streetscape project, cleaning and restoration will begin on the front of the building first. During this process, a portion of the sidewalk in front of the building will be blocked off during construction hours only. Pedestrians will still be able to walk by and staff will be coordinating with Maymead and Bell Construction to ensure that handicap accessibility remains available on the other side of the street during this time. The drywall and plaster has been installed on the ceilings throughout the basement. Work continues on the HVAC and the Electrical on the first, second and third floors. On the first floor the parapet wall has been extended 12" inches higher to ensure the HVAC ducts were hidden and this also allowed the duct vents to penetrate through the wall and not conflict with the crown molding. The door openings have been enlarged. On the second floor a section of the fire escape has been removed so it can be reconfigured. The AV contractor is now visiting the site and coordinating his plans with the superintendent. Due to high costs, only two lights in the Council chambers will be restored in order to stay within budget. Demolition will soon be 100% complete, the exterior restoration work will continue, the HVAC and Electrical will continue to be finished, the wall framing will be finished and the drywall should start being installed on the stud walls.

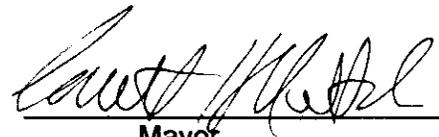
Council member Matthews expressed concern with people taking items out of the dumpsters located at the construction site. Mr. Layne stated the Police Department had been informed that no one should be at the site on the weekends and to question anyone seen at the site. Mr. Layne will discuss with the contractor options to secure the dumpsters.

Brenden Pritchard reported that the project is still going smoothly although rainy days had slowed the progress somewhat. Construction is still ongoing on the west side of Center Street and the traffic pattern at Center Street and Water Street was changed to set up the work zone on that block. The insulation of the water line is almost complete to Water Street. During excavation two old abandoned storage tanks were found. These tanks were pumped out and removed and it was determined by an outside consultant that no sort of contamination existed. The contractor has started switching the water services to the new water main from Front Street to Broad Street. When the roadway on Center Street was milled down it was found that the first layer of asphalt over the concrete was in poor condition due to moisture being trapped. The original plan was to only mill down part of the asphalt and lay 2" inches of asphalt overlay. NCDOT recommends milling down to the concrete then cover with 6 1/2" inches of asphalt in the travel lanes then feathered out to 4" inches in the parking lanes. The curb and gutter has been revised to compensate for the extra thickness of the asphalt and some type of trench or slotted drains may need to be installed to fix this. Staff has discussed with NCDOT the increased amount of asphalt that will be needed and have asked for their assistance. No decision will be made by NCDOT until the exact amount needed is known. In the weeks ahead the light pole bases should be installed from Sharpe to Front Street by the Electrical contractor. Curb and gutter installation will begin shortly after that and storm drainage and water lines should be finished in the third block.

Council member Matthews questioned how the slot drains could be kept clean and unclogged. Mr. Pritchard stated staff is working with the designer to find the best option.

Council member Steele made a motion to adjourn, Seconded by Council member Matthews. The motion carried unanimously.





Mayor

ATTEST:



City Clerk